

***IN THE UNITED STATES PATENT AND TRADEMARK OFFICE***

Applicant: Anish N. PURI  
Title: PRINT JOB DATA  
PROCESSING FOR MULTI-  
HEAD PRINTERS  
Appl. No.: 10/806,627  
Filing Date: 3/23/2004  
Patent No.: 7,416,267  
Grant Date: 8/26/2008  
Examiner: Julian D. Huffman  
Art Unit: 2853  
Confirmation 2614  
Number:

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT**  
**UNDER 37 C.F.R. §1.705**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants respectfully request reconsideration of the Patent Term Adjustment (PTA) determined for the captioned patent, which issued on 8/26/2008 as U.S. Patent No. 7,416,267.

The Patent Office determined that the patent was entitled to 278 days of PTA. Applicant believes that this PTA determination was made in accordance with the “Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. §154(b)(2)(A)” published at 69 Fed. Reg. 34238 (Jun. 21, 2004). Under that interpretation of the PTA statute, any PTO delay under 35 U.S.C. § 154(b)(1)(A) is deemed to overlap with any 3-year maximum pendency delay under 35 U.S.C. § 154(b)(1)(B), and so, as a practical effect, PTA may be awarded under §154(b)(1)(A) or §154(b)(1)(B), but not both.

On September 30, 2008, the United States District Court for the District of Columbia issued a decision finding that the U.S. Patent and Trademark Office's interpretation of the PTA statute is incorrect. *Wyeth v. Dudas*, Civ. Action No. 07-1492 (JR) (Sep. 30, 2008). The court determined that, under the correct interpretation of the PTA statute, periods of "overlap" are limited to "periods of time . . . [that] occur on the same day." *Wyeth*, slip op. at 8. Thus, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." *Id.*

Applicants have recalculated PTA for the captioned patent under the court's interpretation of the PTA statute, and have determined that the patent is entitled to 554 days PTA, as shown on the attached sheet, which shows the relevant delays under 37 CFR §§1.702(a) and (b), and under 37 CFR §§1.703(a) and (b).

The attached sheet details the circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704.

(a) Total of non-overlapping PTO delay under §154(b)(1)(A) & (B): 798 days

(b) Total Applicant delay: 244 days

Final PTA Determination: 554 days

Applicants therefore respectfully request that the patent be accorded 554 days PTA.

The patent is not subject to a terminal disclaimer.

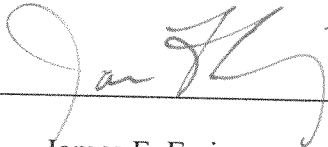
Payment of the requisite fee is submitted herewith. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

However, because this PTA error is due to a Patent Office error in interpreting and applying the PTA statute, a refund of the fee is respectfully requested.

Respectfully submitted,

Date Oct 24, 2008

FOLEY & LARDNER LLP  
Customer Number: 48329  
Telephone: (617) 342-4088  
Facsimile: (617) 342-4001

By 

James F. Ewing  
Attorney for Applicant  
Registration No. 52,875

CLOSE WINDOW

ALL CASES

SELECT CASE

## Patent Term Adjustment Calculation System

Add a new event to this case

Docket Number: 069532-0284

Application Number: 10/806627

Patent Number: 7,416,267

	Event Description	Event Date	Days from Filing	PTO Days	Applicant Days
Edit Delete	Application Filing Date	03/23/2004	0		
Edit Delete	IDS NOT falling under 1.704(c)(6), (8) or (10) filed at PTO	07/22/2004	121		
	14 month From Application date	05/23/2005	426		
Edit Delete	Restriction Requirement	02/23/2006	702	276	
Edit Delete	IDS NOT falling under 1.704(c)(6), (8) or (10) filed at PTO	03/16/2006	723		
Edit Delete	Restriction Requirement Response Received at PTO	04/24/2006	762		
Edit Delete	Non-Final Office Action	05/18/2006	786		
	Non-Final Office Action + 3 months	08/18/2006	878		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	11/17/2006	969		91
Edit Delete	Non-Final Office Action	02/09/2007	1,053		
Edit Delete	IDS under 1.704(c)(8) filed at PTO	03/20/2007	1,092		
	3 Year Period Starts	03/23/2007	1,095		
	Non-Final Office Action + 3 months	05/09/2007	1,142		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	08/09/2007	1,234		92
Edit Delete	Final Office Action	11/06/2007	1,323		
	Final Office Action + 3 months	02/06/2008	1,415		
Edit Delete	Notice of Appeal Received at PTO	04/07/2008	1,476		61
Edit Delete	Final Office Action Response Received at PTO	04/07/2008	1,476		
Edit Delete	Notice of Allowance	05/05/2008	1,504		
Edit Delete	Issue Fee Paid	07/23/2008	1,583		
Edit Delete	Patent Grant Date	08/26/2008	1,617	522	
	Totals:		798	554	244
	PTA:				

Created and maintained by

**FOLEY**

FOLEY &amp; LARDNER LLP

Version: 3.01.11

LOGIN: Mark C. Toomey

IP: 10.18.27.23

Foley &amp; Lardner LLP